

# INTRODUCTION

## Purpose and Goals





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PURPOSE

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### Introduction

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## **I.1 OVERVIEW**

The Michigan Trial Court Collections Standards are the result of an ongoing effort to assist Michigan's trial courts in enforcing financial sanctions and maximizing collection of costs and reimbursements. These standards are intended to help courts implement collections plans or evaluate their existing collections efforts. A commitment to improve court collections will improve the credibility and integrity of the court and at the same time increase revenue for the recipients of these funds. The implementation of these standards is consistent with the fundamental values of **effectiveness** and **accountability** adopted by the Michigan Supreme Court.

The standards are presented in categories that represent different phases of the collections continuum. **Assessment** standards (Section 1.2) concern activities that are performed on the front end of the collections process when financial sanctions are imposed. These standards in particular affect the activities of judicial officers. **Administrative** standards (Section 1.3) address court policies and practices for collections management. Data standards and functionality requirements for both automated and manual courts are covered under **information systems** standards (Section 1.4). Finally, standards for the **enforcement** of financial judgments and orders are detailed in Section 1.5. Since courts deal with diverse collections situations, some standards may have limited application in certain cases.

These standards are based on successful efforts within Michigan and in other states, available research data, and input received from Michigan trial judges and court staff during a series of focus group meetings. The State Court Administrative Office can provide more detailed background information in support of the standards upon request. Additional information is also available from the National Center for State Courts. Chief judges, clerks, and administrators are encouraged to work with local funding authorities to foster mutual understanding of collections issues and seek funding unit support to implement these standards.

These guidelines are intended to assist judges, court administrators, and staff in designing and implementing successful collections programs which achieve the above goals. The State Court Administrative Office is available to assist courts in implementing collections programs. As with all standards or guidelines, periodic updates will be necessary.

## **I.2 COLLECTION PROGRAM GOALS**

"The effectiveness with which judicial responsibilities for collecting fines is carried out has important implications for the fine as a sanction and for the court as an institution. A fine is a court order. If it is not paid, the integrity and credibility of the judiciary is called into question. An uncollected fine has an impact on the offender, the criminal justice system, and the community. When payment is not enforced the offender may believe that he or she has successfully 'beaten the system.' Judges who observe that the fines they have imposed are not being collected may be less willing to use a



monetary sanction in the future. The community may view the problem of collection and enforcement as an indication that the criminal justice system is inefficient and may call for tougher ways to deal with the crime problem. Because certainty of punishment is thought to be a major deterrent to criminality, some individuals may commit crimes if they believe that nothing will happen to them if they fail to pay a fine.”<sup>1</sup>

Court collection programs should be designed with several goals in mind:

- < To enhance the credibility of the court, its judges and staff
- < To improve the enforcement of court judgments
- < To reduce judicial and clerical intervention necessary to collect court-ordered financial obligations
- < To ensure prompt disbursement of court debt to receiving agencies and individuals
- < To achieve more timely case processing

### **I.3 DESCRIPTION OF COURT COLLECTIONS IN MICHIGAN**

Collections programs vary among the types of trial courts in Michigan (circuit, probate, and district). This section gives a description of how collections processes work in the courts, by type of case.

#### **I.3.1 Circuit Court**

##### **1. Felony**

At sentencing, the judge may assess fines, costs, restitution, and fees, and may order the defendant incarcerated or to serve a term of probation.

If the defendant is ordered to probation, payment of the financial penalties may be ordered as a condition of probation. In addition, a probation supervision fee is ordered as a condition of probation, which must be paid immediately unless the court allows installments. Department of Corrections probation staff are assigned the case for periodic reporting and monitoring compliance with conditions of probation. Probation officers traditionally have been reluctant to monitor and enforce payment of financial sanctions, but Department of Corrections officials have recently indicated an interest in putting more focus on this statewide.

If a probationer fails to pay amounts ordered as a condition of probation, the probation

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<sup>1</sup> George F. Cole, “Fines Can Be Fine - and Collected”, *Comstock*, Winter 1989.



officer may recommend that the court revoke probation and order the defendant to be incarcerated. If the court revokes probation, any unpaid amounts which were conditions of probation are no longer owed. (See *People v. Krieger* (1993) 507 N.W.2d 749, 202 Mich.App. 245) The court may assess penalties for the initial criminal offense.

After the expiration of 56 days from non-payment, the court may assess an additional 20% late penalty on the total amount due. After 180 days the court may refer the case to the Michigan Department of Treasury for debt collection. The court has the option of turning the case over to a private collection agency at any point following non-compliance.

Defendants who are sentenced to jail or prison, either initially or as a consequence of probation revocation, may also be assessed financial penalties. Several circuit courts have had success in receiving periodic payments from the prisoner's account through the Department of Corrections. Courts are encouraged to explore this option with local DOC staff. While the individual payments may not be substantial, the flow of money is constant and the prisoner is fulfilling his or her duty to comply with the court's order.

Upon release from prison, most offenders are placed on parole or some other form of DOC supervision. Payment of unpaid court debts are made a condition of parole, and parole may be revoked if the individual fails to pay. Parole officers may require the parolee to provide evidence of payment (such as receipts) to verify that amounts are being paid.

## **2. Family Division - Juvenile Delinquency, Child Protective Proceedings, and Traffic**

Juvenile delinquency and child protective proceeding cases, which are handled by the Family Division of Circuit Court, often result in large amounts of money owed to the court, primarily as reimbursement for costs of placement or service. Parents of juveniles are required to reimburse the court for some or all of the cost of placement or other services. Payments are usually due on a monthly basis, with billing and late notices generated regularly. As a result, Family Division is accustomed to dealing with installment payments and following up with non-payers.

Placement and service costs in Family Division juvenile and child protective cases are unique among court debts, however. Fines and costs in criminal and civil infractions cases are firmly determined at sentencing. Family Division reimbursements are payments for services which have been provided; in addition, costs can continue to accrue, and the amount may change. Family Division collections systems are designed to continue to accrue amounts as time goes by, offsetting them as payments come in.

The court has the option of turning the case over to a private collection agency at any point following non-compliance. Family division may also enforce payment with such tools as intercepting state tax refunds, entering an order for wage assignment, and ordering parents to show cause, among others.



Statute permits the use of fines and costs in all juvenile matters. However, reimbursement is more significant in delinquency cases, with fines and costs used more extensively in traffic matters.

### **I.3.2 Probate Court**

Probate courts have limited involvement in collections programs, since the creation of the Family Division of Circuit Court resulted in juvenile delinquency cases being heard by that court. Most cases handled by probate courts involve filing fees or other amounts which must be paid prior to the case moving forward. As a result, very little effort needs to be devoted to securing payment of amounts owed to the court. Perhaps the only example of a court debt which the court must monitor is the inventory fee which must be paid as part of the process of settling a decedent's estate.

### **I.3.3 District Court**

#### **1. Criminal Misdemeanor**

Upon the entry of a guilty verdict or plea for a more serious misdemeanor offense, the court may refer the offender to the Probation Department for a pre-sentence investigation report. This report includes an assessment of the offender's financial situation and ability to pay. The judge considers this report at sentencing. Less serious misdemeanor cases may not be referred to the Probation Department and sentence will be imposed directly after the entry of a guilty verdict.

If a financial penalty is ordered as part of the sentence, the offender may be required to pay immediately, allowed to pay by some future date, or allowed to pay in installments. Installment and deferred payment options are more common when the offender is placed on probation.

Probation officers typically monitor the payment status of offenders placed on probation. Clerical staff are usually responsible for monitoring payments of offenders not placed on probation. When a payment is missed the court may issue a reminder notice. Probationers who continue to ignore their payment obligations may be required to appear at the court for a show cause for non-compliance, or the probation officer may choose to issue a bench warrant for violation of probation. Non-probationers may also be required to appear at a show cause hearing or the court may issue a warrant for non-compliance.

The court may impose additional costs to compel appearance in some cases. After the expiration of 56 days from non-payment, the court may assess an additional 20% late penalty on the total amount due. The court may undertake its own collection efforts or turn the case over to a private collection agency at any point following non-compliance.



After 180 days the court may refer the case to the Michigan Department of Treasury for debt collection.

Individuals who are unable to pay criminal assessments in full may be allowed to serve community service or jail time in lieu of payment, or may have their assessments, with the exception of restitution, reduced or waived by the judge. An open bond posted by the offender must be applied towards satisfaction of the financial obligation.

## **2. Traffic Misdemeanor**

The requirements and options available to the court to compel payment in traffic misdemeanor cases are similar to criminal misdemeanors, with the additional responsibility of notifying the defendant of impending license sanctions and reporting non-compliance to the Secretary of State. Once the Secretary of State has been notified, a reinstatement fee is due before the license suspension can be lifted.

## **3. Drunk Driving & Liquor Control**

The enforcement of non-compliance with sentence conditions for drunk driving cases is similar to other traffic offenses, with the exception of the shorter time line for notifying the defendant of license sanctions and reporting of non-compliance to the Secretary of State. Once the Secretary of State has been notified, a reinstatement fee is due in addition to the fines and costs before the license suspension can be lifted.

## **4. Traffic Civil Infraction**

When an offender is issued a traffic civil infraction violation they are required to pay a civil penalty or respond to the accusation by a date set by the court. Non-response triggers the entry of a default judgment for the fines and costs. The court issues a default judgment notice after the appearance date has passed. The defendant has fourteen days to comply or the court will initiate notification procedures for license suspension. Once the Secretary of State has been notified of non-compliance, a reinstatement fee is due in addition to the fines and costs before the license suspension can be lifted.

If the offender admits responsibility or is found responsible, the court will impose the financial penalty and may give the offender time to pay or allow installments. Upon failure to pay by the due date, the court will notify the offender of pending license suspension action and notify the Secretary of State if payment is not made.

The court may also assess costs to compel appearance for a traffic civil infraction. An open bond in the offender's name must be applied towards satisfaction of the judgment. At 56 days past the default or payment due date the court may assess an additional 20%



late fee. After 180 days the court may refer the case to the Michigan Department of Treasury for debt collection. The court has the option of turning the case over to a private collection agency at any point following non-compliance or may initiate civil remedies (garnishment and execution) to enforce the judgment. The court also has the option of issuing a summons, order to show cause or civil bench warrant to compel compliance, and may request that the Prosecutor bring a misdemeanor charge for failure to comply.

### **5. Municipal Civil Infraction**

As with a traffic civil infraction, the offender must respond by either paying the penalty or contesting the violation. Failure to respond results in the issuance of a default judgment. Upon entry of a default judgment or failure of an offender to make a scheduled payment, the court proceeds as it would for a traffic civil infraction judgment, but does not notify the Secretary of State. A municipal civil infraction judgment may be collected through civil process. The court has the option of issuing a summons, order to show cause, or civil bench warrant to compel compliance, and may request that the Prosecutor bring a misdemeanor charge for failure to comply. After 56 days the 20% late fee is assessed.

### **6. State Law Civil Infraction**

State law civil infractions (non-traffic) also involve the entry of a civil judgment and imposition of a financial penalty. The same civil remedies and procedures available for municipal civil infractions apply, including the 20% late fee. Additionally, the court must notify the defendant that the Secretary of State will be notified to impose a license renewal hold for non-compliance. Once the Secretary of State has been notified, a reinstatement fee is due before the license renewal hold can be lifted. The court has the option of issuing a summons, order to show cause or civil bench warrant to compel compliance, and may request that the Prosecutor bring a misdemeanor charge for failure to comply.

### **7. Parking Violations**

Parking violations may be filed directly with the court by law enforcement agencies or by a local parking enforcement bureau. Cases are typically not filed by an enforcement bureau unless contested by the offender or for purposes of enforcing a failure to pay. The court may issue additional notices and seek civil remedies as noted above.

When an offender has accumulated two or more unpaid handicapped parking violations, or six or more unpaid parking violations, the court will issue a notice to the offender that after 14 days the Secretary of State will be notified to place a hold on the offender's driver's license renewal. Once the Secretary of State has been notified, a reinstatement fee is due before the license renewal hold can be lifted.